

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Section 272(b)(1)'s "Operate Independently")	
Requirement for Section 272 Affiliates)	WC Docket No. 03-228

COMMENTS OF QWEST

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Qwest Services Corporation ("QSC") on behalf of its subsidiaries, Qwest LD Corp. ("QLD"), Qwest Communications Corporation ("QCC"), and Qwest Corporation ("QC") (collectively referred to as "Qwest") respectfully submits these comments in the above-captioned rulemaking proceeding addressing the Section 272(b)(1) requirement that Bell Operating Company ("BOC") separate affiliates (*i.e.*, providing in-region interLATA services) "operate independently" from the BOC.¹

In its Notice, the Federal Communications Commission ("Commission") specifically asks whether its rules prohibiting sharing operating, installation and maintenance ("OI&M") functions and joint ownership of switching and transmission facilities (and the land and buildings where they are located) should be eliminated.² The answer to this question is an unequivocal "yes". These rules were not necessary in 1996 when the Commission first adopted them in an over-abundance of caution in its Non-Accounting Safeguards Order³ and they are not necessary today.

¹ See *In the Matter of Section 272(b)(1)'s "Operate Independently" Requirement for Section 272 Affiliates*, WC Docket No. 03-228, Notice of Proposed Rulemaking, FCC 03-272, rel. Nov. 4, 2003 ("Notice"); see also 68 Fed. Reg. 65665 (Nov. 21, 2003), Public Notice, DA 03-3742, rel. Nov. 21, 2003.

² See 47 C.F.R. § 53.203(a).

³ See *In the Matter of Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended*, CC Docket No. 96-149, First Report and Order, 11 FCC Rcd. 21905 (1996) ("Non-Accounting Safeguards Order").

More than seven years later, it should be apparent that these “structural separation” requirements serve no worthwhile purpose. They force BOCs and their Section 272 affiliates to forgo efficiencies and burden BOC customers with unnecessary delays in the installation and maintenance of services. As such, these rules should be eliminated at the earliest possible date.

I. INTRODUCTION AND SUMMARY

In the Non-Accounting Safeguards proceeding, the Commission concluded that the phrase “operate independently” imposed requirements beyond those contained in Section 272(b) -- even though the statute provided no guidance beyond the mere words “operate independently.”⁴ In retrospect, it is somewhat surprising that the Commission came to the conclusion that additional constraints were required given the specific requirements contained in Section 272(b)(2)-(5) of the Act which basically define the relationship between BOCs and their Section 272 affiliates and outline how they must operate independently.

Despite the explicit requirements in Section 272(b)(2)-(5) and other safeguards in Section 272, the Commission concluded that additional structural separation requirements were needed and adopted rules prohibiting the sharing of OI&M functions and joint ownership of switching and transmission facilities (and the land and buildings where these facilities are located). In adopting these rules, the Commission asserted that a Section 272 affiliate “could not reasonably be found to be operating independently” if it jointly owned switching and transmission facilities with the BOC⁵ and shared OI&M.⁶

⁴ *Id.* at 21976 ¶ 147.

⁵ The Commission “define[d] transmission and switching facilities broadly to include the facilities used to provide local exchange and exchange access service.” *Id.* at 21982 ¶ 160.

⁶ *Id.* at 21981-82 ¶¶ 157-58.

While the Commission’s prohibitions on OI&M and joint ownership are based on the “operate independently” requirement of Section 272(b)(1), the Commission’s stated purpose in adopting these rules was to prevent BOCs from discriminating in favor of their Section 272 affiliates and improperly allocating costs between BOCs and their affiliates (*i.e.*, cross-subsidization).⁷ Despite these concerns, the Commission permitted BOCs and their Section 272 affiliates to share administrative and other services. In doing so, the Commission has repeatedly found that Section 272 does not require total structural separation and that the economic benefits to consumers outweighed any potential for harm to competition.⁸ In this rulemaking, the Commission should come to a similar conclusion with respect to its OI&M and joint ownership rules.

The purposes of Section 272 can be achieved without the joint ownership and OI&M restrictions contained in Section 53.203(a) of the Commission’s rules.⁹ After a few years of experience and significant change in the regulatory environment, it should be apparent that the costs to BOCs and their customers far outweigh any potential benefits. The prohibitions on joint ownership and sharing OI&M were adopted prior to the approval of any BOC Section 271 applications and the actual provision of in-region interLATA service by BOC Section 272 affiliates. Since then, the BOCs have gained Commission approval to provide interLATA service in all of their in-region states. Furthermore, changes in the Commission’s price cap rules

⁷ “At the time of the *Non-Accounting Safeguards Order*, the Commission reasoned that allowing joint ownership of facilities and sharing of OI&M functions between the BOCs and their 272 affiliates would create opportunities for improper cost allocation and discrimination that the separate affiliate requirement was intended to prevent [footnote omitted].” Notice at ¶ 4; *see also*, First Report and Order, 11 FCC Rcd. at 21981-83 ¶¶ 158-60.

⁸ *Id.* at 21986 ¶ 168. *Also see In the Matter of Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended*, CC Docket No. 96-149, Third Order on Reconsideration, 14 FCC Rcd. 16299, 16313 ¶ 18 (1999).

⁹ 47 C.F.R. § 53.203(a).

have all but eliminated any possibility of cross-subsidization at the federal level. Similarly, ongoing nondiscrimination requirements contained in Sections 272(c), 272(e) and other Sections of the Act (*e.g.*, Sections 201, 202 and 251) provide more than adequate protection against unreasonable discrimination and ensure that BOCs will not be able to favor their section 272 affiliates at the expense of other customers and competitors.

Neither the OI&M rules nor the joint ownership rules are necessary to prevent cost misallocation or unreasonable discrimination by BOCs. As discussed herein, the Commission's Part 32 rules already prohibit cost misallocation and cross-subsidization and Sections 272(c) and (e) prohibit BOC discrimination in favor of its Section 272 affiliate. No purpose is served in continuing to impose the joint ownership and OI&M requirements on BOCs and their Section 272 affiliates -- other than burdening BOCs in the provision of interLATA service.

The Commission's OI&M and joint ownership rules are not needed to protect consumers or competition. Nor are they needed to ensure that rates and practices are just and reasonable and not unreasonably discriminatory. The costs imposed on BOCs, their Section 272 affiliates and their customers by these rules are "real" costs which far outweigh any hypothetical benefits that are associated with the continued existence of these rules. Rodney L. Miller, Qwest's Vice-President Network Services Finance, estimates that Qwest could save approximately \$20 million on OI&M activities, alone, in 2004 if Qwest and its Section 272 affiliate were allowed to share OI&M functions.¹⁰ Accordingly, the Commission should find that its OI&M and joint ownership prohibitions are not necessary to ensure that BOCs and their Section 272 affiliates "operate independently" and should eliminate Section 53.203(a) of its rules.¹¹

¹⁰ See Declaration of Rodney L. Miller, attached hereto.

¹¹ See 47 C.F.R. § 53.203(a).

II. THE OI&M AND JOINT OWNERSHIP RULES ARE NOT NEEDED TO GUARD AGAINST COST MISALLOCATION AND UNREASONABLE DISCRIMINATION.

Regardless of whether the OI&M and joint ownership prohibitions were needed to prevent cost misallocation and discrimination in 1996 when these rules were first adopted, they are not needed today. It is widely recognized that there are many other existing Commission rules that provide more than adequate protection against improper cost allocation (*i.e.*, cross-subsidization) and unreasonable discrimination without imposing the same costs on BOCs and their affiliates as the OI&M and joint ownership restrictions. In fact, the Commission has found repeatedly that non-structural safeguards are sufficient to guard against discrimination and cost misallocation.¹² Any miniscule additional protection that the OI&M and joint ownership prohibitions might provide – and Qwest seriously questions whether they provide any – is far outweighed by the costs imposed on the BOCs, their affiliates and their customers.

A. Cost Misallocation

The normal response of BOC competitors is to argue that without the OI&M and joint ownership rules, BOCs would raise exchange access rates by improperly assigning costs to the BOCs' regulated operations rather than to their Section 272 affiliates. These arguments are without merit. Whatever market power that BOCs may have in the provision of local exchange

¹² *E.g., In the Matter of Separation of Costs of Regulated Telephone Service from Costs of Nonregulated Activities*, CC Docket No. 86-111, Report and Order, 2 FCC Rcd. 1298 (1987) ("Part X Order"); *In the Matter of Amendment of Sections 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry)*, CC Docket No. 85-229, Report and Order, 104 FCC 2d 958 (1986) ("CI-III Order"); *In the Matter of Furnishing of Customer Premises Equipment by the Bell Operating Telephone Companies and the Independent Telephone Companies*, CC Docket No. 86-79, Report and Order, 2 FCC Rcd. 143 (1987) ("BOC CPE Order"); *In the Matter of 1998 Biennial Regulatory Review – Review of Customer Premises Equipment and Enhanced Services Unbundling Rules in the Interexchange, Exchange Access and Local Exchange Markets*, CC Docket No. 98-183, Report and Order, 16 FCC Rcd. 7418 (2001) ("CPE Bundling Order").

services – and Qwest believes that it is quite limited¹³ -- it cannot be used to increase the price of exchange access service. In the LEC Classification Order, the Commission acknowledged that price cap regulation effectively limits BOCs' ability to increase the price of exchange access service.¹⁴

The risk that BOCs may impose higher access charges on long distance competitors by improperly allocating costs has been reduced even further with the Commission's adoption of the CALLS plan in 2000.¹⁵ This plan significantly reduced the cost of exchange access to interexchange carriers ("IXCs") by recovering most, if not all, common line costs from end users through increased subscriber line charges. The adoption of the CALLS plan eliminated the last vestiges of rate of return regulation and, for all intents and purposes, severed the link between costs and prices.¹⁶ Furthermore, any attempt by a BOC to misallocate costs to its Section 272

¹³ Competitive local exchange carriers ("CLECs") have captured a significant share of the local exchange market in Qwest's territory, as demonstrated in Qwest's 271 Applications for Authority to Provide In-Region, InterLATA Services in the 14 states in Qwest's territory. (The applications have subsequently been granted in all 14 states.) The filings state that as of March 31, 2002, Qwest estimated the CLEC market share in: Colorado to be between 20.5 and 21.4 percent; Idaho between 8.8 and 10.6 percent; Iowa between 17.18 and 18.4 percent; Nebraska between 21.5 and 29.9 percent; and North Dakota between 16.0 and 21.0 percent. As of April 30, 2002, Qwest estimated the CLEC market share in: Montana to be between 5.9 and 10.1 percent; Utah between 20.7 and 24.8 percent; Washington between 20.8 and 20.9 percent; and Wyoming between 11.6 and 15.1 percent. As of October 31, 2002, Qwest estimated the CLEC market share in: New Mexico to be between 3.9 and 8.6 percent; Oregon between 21.3 and 22.4 percent; and South Dakota between 23.5 and 29.4 percent. As of December 31, 2002, Qwest estimated the CLEC market share in Minnesota to be between 25.2 and 26.7 percent. As of May 31, 2003, Qwest estimated the CLEC market share in Arizona to be between 18.8 and 20.6 percent.

¹⁴ *In the Matter of Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange Area*, CC Docket No. 96-149, Second Report and Order, 12 FCC Rcd. 15756, 15829-30 ¶ 126 (1997).

¹⁵ *In the Matter of Access Charge Reform*, CC Docket No. 96-262, Sixth Report and Order, 15 FCC Rcd. 12962 (2000) ("CALLS Order").

¹⁶ For example, the CALLS Order effectively eliminated the possibility of price cap LECs raising access charges through the use of low end adjustments. *Id.* at 13037-38 ¶ 181.

affiliate likely would be detected by the Commission and competitors because BOCs must post written documentation on Internet web sites describing all transactions with their Section 272 affiliates.¹⁷

More importantly, cost misallocation and cross-subsidization already are prohibited by the Commission's existing Part 32 rules that govern accounting for transactions between the BOCs and their affiliates.¹⁸ These rules are designed to prevent BOCs from using regulated operations to cross-subsidize the long distance operations of their Section 272 affiliates. Each year the BOCs' cost allocation manuals ("CAM") are audited by independent auditors to ensure compliance with the Part 32 rules¹⁹ and a CAM audit opinion must be filed with the Commission every two years. As long as the Part 32 accounting rules remain in place, these rules provide an independent source of protection and should prevent BOCs from cross-subsidizing their Section 272 affiliates' operations.²⁰

Even if a BOC is able to misallocate costs to its Section 272 affiliate -- whether it be intentional or due to inadvertent error -- it will not go undetected. In addition to CAM audits, Section 272(d) requires that each BOC "obtain and pay for a joint Federal/State audit every 2 years conducted by an independent auditor" to determine whether the BOC has complied with

¹⁷ 47 U.S.C. § 272(b)(5); Non-Accounting Safeguards Order, 11 FCC Rcd. at 21996-97 ¶ 193.

¹⁸ See 47 C.F.R. § 32.27.

¹⁹ CAM audits include an examination of transactions between a BOC and its Section 272 affiliate.

²⁰ In the limited number of states that continue to base rates on a fixed rate-of-return, such states, undoubtedly, would disallow any costs that are shifted improperly from the interLATA affiliate to the BOC.

Section 272.²¹ The results of this audit must be submitted to both the Commission and state regulatory agencies.²²

Thus, BOCs neither have the incentive to engage in cost misallocation nor the ability to escape detection. The OI&M and joint ownership prohibitions provide little additional protection and, in and of themselves, do not prevent cost misallocation. Therefore, these rules should be eliminated.

B. Discrimination

Sections 272 (c), (d) and (e) along with Section 251 ensure that BOCs cannot discriminate against IXC competitors. Section 272(c) prohibits a BOC from discriminating between its Section 272 affiliate and any other entity in the provision or procurement of goods, services, facilities, and information, or in the establishment of standards.²³ Section 272(b)(5)'s posting requirement ensures that other carriers and regulators have information on any such transactions between a BOC and its affiliate.

The continued application of Section 272(e) will ensure that BOCs cannot use any residual control over local exchange bottlenecks to undermine competition in the long distance marketplace. First, Section 272(e)(1)-(2) provides that BOCs “shall fulfill any requests from an unaffiliated entity for telephone exchange service and exchange access within a period no longer than the period in which it provides such telephone exchange service and exchange access to itself or to its affiliates,” and that the BOC must make “any facilities, services, or information

²¹ 47 U.S.C. § 272(d)(1).

²² See 47 U.S.C. § 272(d)(2). The Joint Oversight Team directing these audits includes Commission staff and representatives of state regulatory agencies. Qwest has not yet experienced a Section 272 audit but Qwest currently is involved in discussions with regulators concerning its first such audit.

²³ 47 U.S.C. § 272(c).

concerning its provision of exchange access” that it provides to its affiliate available to other providers of interLATA services on the same terms and conditions.²⁴ Thus, Section 272(e)(1) will continue to impose an absolute prohibition against the BOC fulfilling requests for telephone exchange service and exchange access for itself or its affiliate any more quickly than it fulfills such requests for competing providers. Moreover, the BOC may not discriminate between its affiliate and any competing long distance provider with respect to “facilities, services, or information concerning [the BOC’s] provision of exchange access.”²⁵

The continued enforcement of Section 272(e)(3) will also prevent BOCs from engaging in a price squeeze. This section provides that the BOC “shall charge [its Section 272] affiliate ... an amount for access to its telephone exchange service and exchange access that is no less than the amount charged to any unaffiliated interexchange carriers for such service.”²⁶ If the BOC’s Section 272 affiliate charges a rate for its interLATA services below its incremental costs of providing service (*i.e.*, including access charges costs), and this rate were sustained for an extended period, such conduct would violate Sections 201 and 202 of the Communications Act, as well as Section 272(e)(3).

Finally, Section 272(e)(4) allows a BOC to “provide any interLATA or intraLATA facilities or services to its interLATA affiliate” but only “if such services or facilities are made available to all carriers at the same rates and on the same terms and conditions, and so long as the costs are appropriately allocated.”²⁷ Thus, Section 272(e)(4) also will prevent BOCs from

²⁴ 47 U.S.C. § 272(e)(1)-(2).

²⁵ 47 U.S.C. § 272(e)(2).

²⁶ 47 U.S.C. § 272(e)(3).

²⁷ 47 U.S.C. § 272(e)(4).

discriminating with respect to intraLATA facilities or services, or shifting costs with respect to such facilities or services.

Furthermore, Section 271(d)(6) gives the Commission specific authority to enforce the requirements of Section 272 including imposition of penalties, suspension or revocation of Section 271 approval, and an expedited complaint process.

Apart from Sections 272(e) and 271(d)(6), additional safeguards will remain that are sufficient to protect competition in the long distance marketplace. For instance, antitrust laws generally protect competition in the long distance marketplace. Moreover, Section 251(c)(5) will impose continuing network disclosure obligations on the BOCs. This section obligates BOCs (and other incumbent LECs) to “provide reasonable public notice of changes in the information necessary for the transmission and routing of services using that local exchange carrier’s facilities or networks, as well as of any other changes that would affect the interoperability of those facilities and networks.”²⁸ Coupled with Section 272(e)(1), Section 251(c)(5) will continue to prohibit the BOCs from discriminating with respect to changes in the information necessary for the transmission and routing of services using that LEC’s facilities or networks.²⁹

The BOCs will continue to have the obligation to “provide dialing parity to competing providers of telephone exchange service and telephone toll service, and the duty to permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays.”³⁰ BOCs will also continue to have duties to interconnect with IXC’s on terms and conditions that are just and

²⁸ 47 U.S.C. § 251(c)(5).

²⁹ See Non-Accounting Safeguards Order, 11 FCC Rcd. at 22002-03 ¶ 208.

³⁰ 47 U.S.C. § 251(b)(3).

reasonable.³¹ Finally, these requirements will be subject to enforcement through the Commission's general complaint jurisdiction³² and through the provisions of Section 271(d)(6) as previously discussed.

In summary, the Commission has numerous rules and regulations in place that prohibit BOCs from unreasonably discriminating against IXC competitors. Retaining the OI&M and joint ownership prohibitions would not aid in preventing discrimination.

III. ELIMINATION OF THE OI&M AND JOINT OWNERSHIP RULES
WOULD ALLOW QWEST TO IMPROVE SERVICE AND OPERATE
IN THE MOST COST EFFICIENT MANNER.

The existing OI&M rules both impair Qwest's ability to serve its customers and impose unnecessary costs on Qwest in the provision of in-region interLATA service. As Pamela J. Stegora Axberg, Qwest's Senior Vice-President National Network Services ("NNS"), points out in her attached declaration, the OI&M restrictions affect customer service in numerous ways including: (1) requiring at least two sets of procedures and workforces to install, design (*i.e.*, circuit design) and test services that customers order; (2) restricting a single Qwest entity from providing end-to-end network monitoring; and (3) requiring duplicate systems, procedures and work groups to identify and repair network problems causing service outages and interruptions. None of these effects has a positive impact on Qwest's customers. Rodney L. Miller, Qwest's Vice-President Network Services Finance, estimates that, at a minimum, the OI&M prohibition will impose \$20 million in additional costs on Qwest during 2004 over and above any costs imposed on Qwest's customers.³³

³¹ See 47 U.S.C. §§ 201, 251(a).

³² 47 U.S.C. § 208.

³³ See Rodney L. Miller Declaration.

At a minimum, the OI&M restrictions result in delays in installing and repairing customers' services. In addition to increasing Qwest's costs, delays may impose unnecessary costs on Qwest's customers. This is particularly true with respect to large business and government customers that have numerous locations and purchase a wide variety of sophisticated services. Their primary concern is service reliability with a minimum of downtime. These customers want a single point of contact for service problems and fast response times in addressing problems. The current OI&M restrictions unnecessarily complicate coordination of customer service activities between QC, the BOC, and Qwest's Section 272 affiliates and lengthen installation and trouble response times. In fact, Ms. Stegora Axberg believes that the benefits accruing to Qwest's interLATA customers from the elimination of the OI&M restrictions are more important than the direct cost savings to Qwest itself.

The benefits to Qwest's interLATA customers from elimination of the OI&M restrictions are even more important than the direct cost savings to Qwest. Among other things, these benefits include: (1) the ability of Qwest to provide single integrated end-to-end communications solutions for customers; (2) a reduction in the number of "touchpoints" (contact points) necessary to meet customer requirements – thereby reducing installation and repair times for customers; (3) designation of a single number for customers to contact for service problems; (4) the elimination of duplicate testing by separate Qwest entities (*i.e.*, QC and QCC) of the same interLATA services; (5) greater likelihood that network capacity will be available when and where customers need it; and (6) an overall enhancement in the quality of service provided to Qwest's interLATA customers."³⁴

Qwest also believes that elimination of the joint ownership rules should allow both QC, the BOC, and QCC, Qwest's Section 272 affiliate, to provide service to their customers in a more cost efficient manner in the future. Joint ownership would allow Qwest to make best use of

³⁴ See Declaration of Pamela J. Stegora Axberg at ¶ 6.

its limited capital budget and to avoid duplicative infrastructure investments (where construction of separate stand-alone facilities would result in significant amounts of unused capacity).

IV. THE OI&M AND JOINT OWNERSHIP RULES HARM COMPETITION BY IMPOSING UNNECESSARY BURDENS ON BOCs AND THEIR AFFILIATES AND THEIR CUSTOMERS.

A. BOCs

If the OI&M rules were eliminated BOCs, in all likelihood, would be able to use their existing work forces more efficiently. This is particularly important when BOCs are experiencing declines in access lines and customer volumes, as has been the case in recent years.³⁵ Not only would BOCs be able to put under-utilized resources to work, the Commission's separate affiliate rules ensure that a BOC would benefit financially from such an arrangement.

Similar efficiency gains can be expected to accrue to the BOCs over time if the prohibition on joint ownership of switching and transmission facilities is eliminated. Investments in switching and transmission facilities have long lead times so cost saving from eliminating the joint ownership rules would be much more gradual than those associated with elimination of the OI&M rules.³⁶

³⁵ For example, QC, Qwest's BOC, lost 16% of its business access lines and 8.6% of its residence lines in the two-year period from the end of 2000 to the end of 2002 – a loss of almost 2 million access lines. See ARMIS Report 43-05, Table II, 2000 and 2002.

³⁶ For example, QCC, Qwest's Section 272 affiliate, already was an established IXC prior to its merger with U S WEST, Inc. and had largely completed construction of its nationwide network before the approval of any of Qwest's Section 271 applications to provide interLATA service in in-region states. Thus, while Qwest strongly supports the elimination of joint ownership rules and believes that it will lead to significant savings in future infrastructure costs, it does not anticipate immediate cost savings of any great magnitude.

B. Section 272 Affiliates

Elimination of the OI&M and joint ownership prohibitions would reduce Qwest's costs, improve customer service, and allow Qwest's Section 272 affiliates to compete more effectively in the interLATA services market. Qwest would be able to avoid maintaining duplicate systems and work forces for OI&M functions and could gain greater economies of scope and scale in switching and transmission. Rodney L. Miller, Qwest's Vice-President Network Services Finance, estimates that Qwest would save approximately \$20 million in OI&M expenses during 2004 if the OI&M restrictions were lifted.³⁷ Furthermore, eliminating the OI&M restrictions would allow Qwest to engage in end-to-end network monitoring and testing. These benefits should increase network reliability and the overall quality of service provided to Qwest's interLATA customers. Thus, not only will elimination of the OI&M and joint ownership rules reduce Qwest's costs, it will enhance competition in the interLATA services market.

C. Customers

As shown above, neither the OI&M nor the joint ownership restrictions are necessary to ensure that Qwest's rates and practices are just, reasonable and not unreasonably discriminatory. In fact, elimination of these restrictions should benefit consumers in three ways: (1) by allowing Qwest to compete more effectively in the market for in-region interLATA services; (2) by allowing Qwest to streamline OI&M functions for its interLATA customers (thereby, improving customer service); and 3) by allowing Qwest to make infrastructure investments in the most efficient and customer-friendly manner. In and of themselves, the OI&M and joint ownership restrictions provide no protections or benefits to customers. As Ms. Stegora Axberg, Qwest's

³⁷ Mr. Miller indicates that annual savings in OI&M expenses can be expected to increase along with future growth in QCC's in-region interLATA business.

Senior Vice-President NNS, points out, the existing rules harm customers by lengthening installation and repair times (which impose additional costs on customers over and above those imposed on Qwest as a service provider). As such, the Commission should find that customers would benefit from the elimination of these rules.

V. CONCLUSION

As demonstrated in the above comments, the Commission should find that existing prohibitions on BOCs and their Section 272 affiliates sharing OI&M and jointly owning switching and transmission facilities (and the land and buildings on which these facilities are located) are no longer necessary. As such, Qwest requests that the Commission eliminate Section 53.203 of its rules at the earliest possible date.

Respectfully submitted,

QWEST SERVICES CORPORATION

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Its Attorneys

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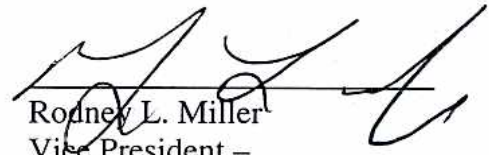
DECLARATION OF RODNEY L. MILLER

1. My name is Rodney L. Miller. I am Qwest's Vice-President Network Services Finance. In that capacity I am responsible for financial management of Qwest's multi-billion dollar capital and expense budgets for Qwest's different network organizations and manage a team of 140 financial professionals. I have been employed by Qwest and U S WEST for 20 years. During that time, I have held numerous positions in finance and related areas including financial management, investor relations, business case/opportunity analysis, financial information systems, and corporate accounting. Prior to assuming my current position in May 2002, I was responsible for financial management of Qwest's local network organization. I received a bachelor of science degree in business administration (with a major in management information systems) from the University of Northern Colorado and a master of business administration from the University of Colorado.
2. The purpose of this declaration is to provide an estimate of the cost savings that would accrue to Qwest and its affiliates if the Federal Communications Commission ("Commission") eliminates its rules prohibiting sharing of operating, installation and maintenance ("OI&M") functions by Bell Operating Companies ("BOCs") and their Section 272 affiliates.
3. Prior to addressing OI&M savings, I should note that Qwest Communications Corporation ("QCC") only began carrying in-region interLATA traffic over its own network in November of this year after it satisfied all necessary Section 272 criteria. Previously, Qwest provided in-region interLATA voice long distance service through Qwest LD Corp. ("QLD") by reselling the services of an unaffiliated interexchange carrier. Qwest anticipates providing all in-region interLATA service over QCC's network in the future.
4. If the OI&M restrictions were eliminated for the 2004 calendar year and QCC is able to achieve the efficiencies described in Pamela Stegora Axberg's Declaration, it is my opinion that Qwest would save approximately \$20 million in OI&M costs over the year.

5. My estimate is based on current business volumes and assumes that QCC would purchase OI&M functionality from Qwest Corporation ("QC"), the BOC, for most in-region interLATA service. This estimate does not include any savings which might accrue to QC from purchasing OI&M functionality from QCC for a limited number of National Accounts. Qwest's OI&M savings could be expected to grow significantly in future years as its in-region interLATA business grows and Qwest achieves greater success in the Enterprise market (*i.e.*, in attracting large business and government customers that have a nationwide presence).
6. Furthermore, my estimate does not include any savings that will accrue to Qwest's customers – which we believe will be quite substantial – as a result of reduced installation and repair times and other benefits that Ms. Stegora Axberg describes in her Declaration.

I certify that the foregoing is true and correct to the best of my information and belief.

Executed on December 9, 2003.



Rodney L. Miller
Vice President –
Qwest Network Services
Finance

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DECLARATION OF PAMELA J. STEGORA AXBERG

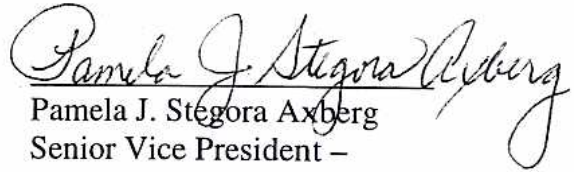
1. My name is Pamela J. Stegora Axberg. I am Senior Vice-President for Qwest's National Network Services ("NNS"). In that capacity, I am responsible for overall management of engineering, operations, and network reliability of Qwest Communications Corporation's ("QCC") national voice, video and data networks. More than 2500 employees report to me in fulfilling these responsibilities. I have been employed by Qwest and U S West for 18 years. During that time I have held numerous positions in network operations including data services, network planning, engineering operations and product development. Prior to assuming my current position in May 2002, I was Senior Vice President over Qwest Corporation's ("QC") Eastern Region operations which included responsibility for delivering telecommunications services to customers in Iowa, Minnesota, Nebraska, North Dakota and South Dakota and overall responsibility for network reliability for QC's 14-state service area. I received a bachelor of arts degree in mathematics from the College of St. Catherine and a master of business administration from the University of Minnesota.
2. The purpose of this declaration is to describe the type of savings that would accrue to Qwest if the Federal Communications Commission's ("Commission") rules regarding the performance of operating, installation and maintenance ("OI&M") functions by Bell Operating Companies ("BOCs") and their Section 272 affiliates were lifted and Qwest is allowed to provide OI&M functions in the most efficient manner.
3. Currently, QC and QCC are not permitted to perform OI&M functions for each other under the Commission's existing rules. Until recently, this has had little impact on Qwest's costs since Qwest's long distance (*i.e.*, Section 272) affiliate, Qwest LD Corp. ("QLD"), provided interLATA service by reselling the long distance voice services of another carrier. However, Qwest recently designated QCC as a Section 272 affiliate and began carrying QLD's in-region interLATA traffic on QCC's network. In addition, QCC offers a wide range of in-region interLATA services directly to customers over its own network.
4. Now that Qwest has begun to provide in-region and out-of-region interLATA services on an integrated basis through QCC, it is evident that the OI&M restrictions

impose a significant amount of unnecessary costs on QCC and impair QCC's ability to serve its customers in the most efficient manner. Both Qwest and its interLATA customers will suffer if QCC is prohibited from purchasing OI&M functionality from QC for mass market customers and QC is not allowed to purchase OI&M functionality from QCC for a relatively small number of national accounts.

5. With the elimination of the OI&M restrictions, efficiencies will arise because Qwest will be able to: (1) eliminate duplicative procedures and work forces in QC and QCC in the installation, design, and testing of customer orders; (2) use a single Qwest entity (either QC or QCC) to provide end-to-end network monitoring; and (3) eliminate duplicative systems, procedures and work forces used in identifying and repairing service outages and interruptions.
6. The benefits to Qwest's interLATA customers from elimination of the OI&M restrictions are even more important than the direct cost savings to Qwest. Among other things, these benefits include: (1) the ability of Qwest to provide single integrated end-to-end communications solutions for customers; (2) a reduction in the number of "touchpoints" (contact points) necessary to meet customer requirements – thereby reducing installation and repair times for customers; (3) designation of a single number for customers to contact for service problems; (4) the elimination of duplicate testing by separate Qwest entities (*i.e.*, QC and QCC) of the same interLATA services; (5) greater likelihood that network capacity will be available when and where customers need it; and (6) an overall enhancement in the quality of service provided to Qwest's interLATA customers.
7. While elimination of the OI&M restrictions should allow Qwest to provide better customer service to all customers, removal of these restrictions is particularly important to satisfy the service needs of large business and government customers. These customers purchase a wide variety of sophisticated interLATA services and demand a single point of contact to resolve service problems. Their primary concerns are timely installation and repair with a minimum of downtime. In many instances, large business and government customers will refuse to deal with a carrier if the carrier cannot provide end-to-end network monitoring and guaranteed response times for addressing service outages.
8. In summary, continued imposition of the Commission's OI&M rules will result in delays in installing and repairing customers' services and impose unnecessary costs on both Qwest and its interLATA customers. This is particularly true for large business and government customers that have numerous locations and purchase a wide variety of sophisticated interLATA services.

I certify that the foregoing is true and correct to the best of my information and belief.

Executed on December 9, 2003.


Pamela J. Stegora Axberg
Senior Vice President –
Qwest National Network Services

CERTIFICATE OF SERVICE

I, Ross Dino, do hereby certify that I have caused the foregoing **COMMENTS OF QWEST** to be 1) filed with the FCC via its Electronic Comment Filing System, 2) served via e-mail on Janice M. Myles of the Wireline Competition Bureau of the FCC (janice.myles@fcc.gov), and 3) served via e-mail on the FCC's duplicating contractor Qualex International, Inc. (qualexint@aol.com).

/s/ Ross Dino
Ross Dino

December 10, 2003